

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARK-ALONZO WILLIAMS,)	
)	
Plaintiff,)	2:16-cv-01233
)	District Judge Nora Barry Fischer
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
JOHN E. WETZEL, ET AL.,)	
)	
Defendants.)	

MEMORANDUM ORDER

On September 8, 2017, the Court entered a Memorandum Order adopting the August 15, 2017 Report and Recommendation (“R&R”) of Magistrate Judge Lisa Pupo Lenihan, over Plaintiff’s Objections, and dismissing Defendant Peter Saavedra from this action, with prejudice. (Docket No. 250). After said Memorandum Order was entered, the Court received a motion from Plaintiff on September 13, 2017 seeking to have the Court rescind the R&R. (Docket No. 252). Although the motion was docketed on September 13, 2017, under the federal prisoner mailbox rule, it is deemed filed on September 5, 2017 because that is the date that Plaintiff apparently signed it. *See Pearson v. Sec’y Dep’t of Corr.*, 775 F.3d 598, 600 n. 2 (3d Cir. 2015). On September 19, 2017, Defendant Saavedra responded to the pending motion. (Docket No. 257). For the reasons that follow, the motion will be denied.

After reviewing the motion, it remains unclear to the Court why Plaintiff believes that the Court should rescind the R&R. It appears, however, that the motion is based on Plaintiff’s assertion that an Order from August 24, 2017 incorrectly stated, in response to his “Motion for Information on Docket & Public Disclosure from Court,” that no R&R had been issued on Defendant Saavedra’s then-pending converted motion for summary judgment. (Docket Nos. 237,

239).¹ As noted by Defendant Saavedra in response to the pending motion, even if Plaintiff's assertion here is true, it is inconsequential. (Docket No. 257). Plaintiff obviously received the R&R and submitted timely Objections and a "Supplement/Amended Response" to it. (Docket Nos. 240, 246). Thus, his motion does not identify a valid reason for the Court to rescind the R&R.

The Court notes that the Memorandum Order from September 8, 2017 only reviewed Plaintiff's Objections that were filed on August 31, 2017, but did not address Plaintiff's Supplement/Amended Response that was filed on August 29, 2017. The Court has now conducted a *de novo* review of the Supplement/Amended Response. In this document, Plaintiff does not address the R&R's recommendation that his claims against Defendant Saavedra under 42 U.S.C. §1983 are barred by the mandatory exhaustion provision of the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), and instead argues that he stated a claim against Defendant Saavedra on the merits. Thus, the Supplement/Amended Response does not undermine the R&R or the Court's Memorandum Order adopting the R&R. Similarly, to the extent that Plaintiff's pending motion to rescind the R&R is an attempt for Plaintiff to assert additional objections, the Court has reviewed the motion, *de novo*, notwithstanding that it was filed after the objections deadline, and concludes that it does not undermine the R&R or the prior Memorandum Order adopting the R&R.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion to Rescind the R&R (Docket No. [252]) is DENIED.

¹ The Court notes that due the frequency with which Plaintiff floods the Court with procedurally improper motions and other correspondence, the docket in this case is entirely cluttered and disjointed. Thus, Plaintiff's own conduct contributed to the situation about which he complains in the motion.

IT IS FURTHER ORDERED that the Court's Memorandum Order from September 8, 2017 (Docket No. [250]) adopting the R&R of Magistrate Judge Lenihan (Docket No. [225]) and dismissing Defendant Saavedra from this action, with prejudice remains in full force and effect.

/s/ Nora Barry Fischer
Nora Barry Fischer
United States District Court

Dated: September 22, 2017.

cc/ecf: All counsel of record.

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